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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,772	12/31/2001	Daniel E. Stafne	12014/103/101	9153

7590 01/26/2005

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EXAMINER

SIMITOSKI, MICHAEL J

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/039,772

Applicant(s)

STAFNE, DANIEL E.

Examiner

Michael J Simitoski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☒ Claim(s) 5 and 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/9/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The IDS of 4/9/02 was received and considered.
2. Claims 1-47 are pending.

#### Specification

3. The disclosure is objected to because the specification fails to disclose the total number of facets equal to 26, 30, 32, 34, 36 and 40.

Appropriate correction is required.

#### *Claim Objections*

4. Claim 5 is objected to because of the following informalities: "wherein first" should be replaced with "where the first". Appropriate correction is required.

#### *Double Patenting*

5. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

6. Claim 33 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 29.

When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim

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to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 20-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to disclose the total number of facets equal to 26, 30, 32, 34, 36 and 40 and it is unclear what combination of physical elements would produce the set.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 11, 42 & 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 11 recites the limitation "the specialized letter symbols" in line 3. There is insufficient antecedent basis for this limitation in the claim.

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12. Claim 11 recites the limitation "the letter symbols" in line 4. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 27 is unclear because, for the ratio of elements of first indicia to elements of second indicia to be 2:1, three elements must exist, however only two elements are claimed.

14. Claim 28 recites the limitation "the first set of indicia" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

15. Claim 30 recites the limitation "said portion" in line 4. There is insufficient antecedent basis for this limitation in the claim.

16. Claim 30 is unclear because it is unclear whether "said indicia" is referring to first or second indicia.

17. Claim 30 recites the limitation "the first sequential group" in line 5. There is insufficient antecedent basis for this limitation in the claim.

18. Claim 31 recites the limitation "said set of elements having said first indicia" in line 2. There is insufficient antecedent basis for this limitation in the claim.

19. Claim 31 is unclear because "number of said first indicia" implies an indicia being plural "marks", as is defined in the art, however the limitations "each indicia in sequence", "next indicia in sequence" and "all indicia" appears to refer to each "mark" in the indicia. The term "indicia" is a plural term and is indefinite when used to refer to both a singular and plural noun.

20. Claim 35 recites the limitation "said set of first indicia" in line 2. There is insufficient antecedent basis for this limitation in the claim.

21. Claim 36 is unclear because "each indicia of said second indicia" uses "indicia" to refer to plural "marks" and the singular "mark".

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22. Claim 37 recites the limitation "said set of first indicia" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.
23. Claim 37 recites the limitation "the upper or lower case letter symbols" in line 4. There is insufficient antecedent basis for this limitation in the claim.
24. Claim 37 is unclear because "means for determining the upper or lower case symbols" is not an element, as described in the specification.
25. Claim 37 is unclear because "determining the upper or lower case symbols" has no outcome.
26. Claim 39 is unclear because "means for determining ... is provided by color indicia" is vague and indefinite; determining said case has no outcome and hence could happen before the elements are assigned letters or during a game.
27. Claim 42 recites the limitation "said at least some of first indicia" in line 5. There is insufficient antecedent basis for this limitation in the claim.
28. Claim 42 is unclear because "means for assigning an initial value to each indicia selected" suggests a "selected" indicia, which is not recited in the claims.
29. Claim 43 is unclear because "said indicia" could refer to the first or second indicia.
30. Claim 44 recites the limitation "assigned by said indicia"; it is unclear whether this refers to the first or second indicia.

***Claim Rejections - 35 USC § 102***

31. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

32. Claims 1, 19-24, 26, 29-35 & 37 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,208,754 to Sieve.

Regarding claim 1, 29, 32-33, 35 & 37, Sieve discloses a first multi-faceted element/cube (Fig. 1, B) carrying first indicia/numbers 1-6 and a second multi-faceted element/an icosahedron (Fig. 1, C) carrying second indicia/numbers 1-20 distinguishable from the first indicia/numbers 1-6 (col. 1, lines 53-64).

Regarding claim 19, Sieve discloses the total number of facets for all multi-faceted elements being equal to 26 (Fig. 1, B & C).

Regarding claim 20, Sieve discloses the total number of facets for all multi-faceted elements being equal to 30 (Fig. 2, A, B, E, D).

Regarding claim 21, Sieve discloses the total number of facets for all multi-faceted elements being equal to 32 (Fig. 2, A, C).

Regarding claim 22, Sieve discloses the total number of facets for all multi-faceted elements being equal to 34 (Fig. 2, B, C, D).

Regarding claim 23, Sieve discloses the total number of facets for all multi-faceted elements being equal to 36 (Fig. 2, A, C, E).

Regarding claim 24, Sieve discloses the total number of facets for all multi-faceted elements being equal to 40 (Fig. 2, A, C, D).

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Regarding claim 26, Sieve discloses the ratio of the number of elements having first indicia/numbers 1-6 and elements having second indicia/numbers 1-20 being 1:1.

Regarding claim 30, as best understood, Sieve discloses the first indicia having a predetermined sequential order/numerical (col. 1, lines 49-64) and wherein said indicia/numbers are arranged on said multi-faceted elements/die such that said portion of first indicia such that said portion of first indicia on said first element are the first sequential group equal to the number of facets of said first element (numbers 1-6) (col. 1, lines 49-64).

Regarding claim 31, as best understood, Sieve discloses the number of facets/6 on said set of elements having said first indicia/numbers 1-6 is equal to the number of said first indicia/6 (Fig. 1), wherein first indicia/numbers 1-6 have a predetermined sequential order (1-6), wherein said elements/cube having first indicia/numbers 1-6 are sequentially ordered (there is only 1), and wherein said indicia are arranged on said multi-faceted elements/cube (Fig. 1) such that each indicia in sequence is placed on the next element in sequence until all elements have one indicia, the sequence of arrangement is restarted with the first element such that the next indicia in sequence is arranged on the first sequential element and so on until all indicia are arranged on said facets (Fig. 1 & col. 1, lines 49-64).

Regarding claim 34, Sieve discloses said second indicia/numbers 1-10 from a group of symbols consisting of the set of numeric symbols 0-N (0-10).

33. Claims 1, 27 & 29-36 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,114,290 to Cooper.



Regarding claim 1, 29 & 32-33, Cooper discloses a first multi-faceted element/die carrying first indicia/numbers and a second multi-faceted element carrying second indicia/operator (Figs. 3A & 3B) distinguishable from the first indicia.

Regarding claim 27, Cooper discloses the ratio of the number of elements having first indicia and the elements having second indicia being 2:1 (Fig. 1).

Regarding claim 30, as best understood, Cooper discloses the first indicia having a predetermined sequential order/numerical (Figs. 3A, 3C & col. 2, lines 40-59) and wherein said indicia/numbers are arranged on said multi-faceted elements/die such that said portion of first indicia such that said portion of first indicia on said first element are the first sequential group equal to the number of facets of said first element (numbers 1-12) (Figs. 3A, 3C & col. 2, lines 40-59).

Regarding claim 31, as best understood, Cooper discloses the number of facets/12 on said set of elements/numerical die having said first indicia/numbers 1-12 is equal to the number of said first indicia/12 (Fig. 3A), wherein first indicia/numbers 1-12 have a predetermined sequential order (1-12), wherein said elements/dodecahedron having first indicia/numbers 1-12 are sequentially ordered, and wherein said indicia are arranged on said multi-faceted elements/cube (Fig. 3A) such that each indicia in sequence is placed on the next element in sequence until all elements have one indicia, the sequence of arrangement is restarted with the first element such that the next indicia in sequence is arranged on the first sequential element and so on until all indicia are arranged on said facets (Fig. 3A).

Regarding claim 34, Cooper discloses said second indicia/numbers 1-10 from a group of symbols consisting of the set of numeric symbols 0-N (0-10).

Regarding claim 35, Cooper discloses each indicia of said set of first indicia appearing on only one facet of said set of elements (Figs. 3A & 3B).

Regarding claim 36, Cooper discloses each indicia of said set of second indicia appearing on only one facet of said set of elements (Figs. 3A & 3B).

34. Claims 1-6, 11-13, 16-18, 20, 26, 28-29, 32-35 & 37 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,125,660 to Stahl.

Regarding claims 1-3, 29, 32-33, 35 & 37, Stahl discloses a first multi-faceted element/die 2 carrying first indicia/letters (Figs. 1 & 2C) and a second multi-faceted element/die 3 carrying second indicia/numbers (Figs. 1 & 2B) distinguishable from the first indicia/letters.

Regarding claims 4 & 11, Stahl discloses the first indicia/letters being from a group consisting of the 24 letter symbols present on a standard telephone keypad (A, K, J) (Fig. 2C).

Regarding claims 5, 12 & 17-18, Stahl discloses the first element/die 2 having six facets (Fig. 1) and the set of elements further comprising third (Fig. 2A), fourth (Fig. 2D) and fifth (Fig. 2E) six-faceted elements each carrying a portion of said set of first set of indicia thereon, wherein the first, third, fourth and fifth elements all have different portions of first indicia/letters thereon.

Regarding claims 6 & 16, Stahl discloses at least some of said second indicia/numbers being numeric symbols (Fig. 1).

Regarding claim 7, Stahl disclose the total number of facets for all multi-faceted elements being equal to 24 (Figs. 2B, 2C, 2A, 2D).

Regarding claims 13 & 20, Stahl discloses the total number of facets for all multi-faceted elements being equal to 30 (Fig. 1).

Regarding claim 26, Stahl discloses the ratio of the number of elements having first indicia/letters and elements having second indicia/numbers being 1:1 (Figs. 2B – 2C).

Regarding claim 28, as best understood, Stahl discloses the first indicia including all of the letter symbols of an alphabet (alphabet consisting of A, K, J), wherein the number of multi-faceted elements having first indicia thereon is such that each of said letter symbols is placed on facets having the same number of edges and said facets having equal surface area (Fig. 1).

Regarding claim 34, Stahl discloses said second indicia/numbers 1-10 from a group of symbols consisting of the set of numeric symbols 0-N (0-10).

35. Claims 1 & 41 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,617,063 to Dyer.

Regarding claim 1, Dyer discloses a first multi-faceted element/die carrying first indicia/dots and a second multi-faceted element carrying second indicia/dots distinguishable from the first indicia (Figs. 7 & 8).

Regarding claim 41, Dyer discloses that there are two dice of Fig. 7 and two of Fig. 8, where one die of each figure is a certain color, while one die of each figure is a second color (col. 4, lines 1-12).

36. Claims 42 & 46-47 are rejected under 35 U.S.C. 102(b) as being anticipated by “Word Yahtzee” by Game Cabinet (GC).

Regarding claim 42, GC discloses a first multi-faceted element/die carrying first indicia/letters, said at least some of first indicia comprised of language letter symbols (p. 1), and means for assigning an initial value to each indicia selected/number values (p. 1).

Regarding claim 46, GC discloses two or more first multi-faceted elements carrying first indicia/letters thereon (letter dice), one ore more second multi-faceted element carrying second indicia/letters thereon (letter dice) and means/player for determining a code sequence/word comprised of selected indicia from both said first and second indicia (p. 1).

Regarding claim 47, GC discloses the set of elements/letter dice being arranged such that the selection of said indicia of said code sequence may be determined through a single manipulation of said elements/roll of the dice (p. 1).

37. Claims 42-44 are rejected under 35 U.S.C. 102(b) as being anticipated by “Word Yahtzee” by Milton Bradley.

Regarding claim 42, Milton Bradley discloses a first multi-faceted element/die carrying first indicia/letters, said at least some of first indicia comprised of language letter symbols (p. 1), and means for assigning an initial value to each indicia selected/number values (p. 5, last ¶).

Regarding claim 43, Milton Bradley discloses assigning an initial value by a second multi-faceted element carrying second indicia whereby an amount of points can be assigned by said indicia (if the last indicia is a vowel/consonant, it changes the value of the previous indicia) (p. 5, last ¶).

Regarding claim 44, Milton Bradley discloses providing a first multi-faceted element/letter die carrying first indicia/letters and a second multi-faceted element carrying

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second indicia/letters (p. 1) whereby an amount of points can be assigned by said indicia (last die) (p. 5, last ¶), manipulating said first element to select an indicia from said first indicia (rolling dice), manipulating said second element to select an indicia from said second indicia (rolling dice) (p. 4, last ¶) and assigning points to said indicia of said first element based upon the indicia of the second element (if the last indicia is a vowel/consonant, it changes the value of the previous indicia) (p. 5, last ¶).

38. Claims 1-4 & 44 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent 3,195,895 to Kropinski.

Regarding claims 1-3, Kropinski discloses a first multi-faceted element/die (Fig. 3) carrying first indicia/letters and a second multi-faceted element/die (Fig. 5) carrying second indicia/numbers distinguishable from the first indicia.

Regarding claim 4, Kropinski discloses a system, as described above, but lacks the 24 character symbols present on a standard telephone keypad. Kropinski discloses that a lesser number of faces (than the 26 disclosed) could be provided to the letters die by discarding more rarely used letters (col. 4, lines 54-56). However, Stein teaches that a standard telephone omits the letters Q and Z, leaving 24 letter symbols of the alphabet (col. 2, lines 59-65). Further, Ortiz Burgos teaches that a tetra-hexadron is composed of 24 equilateral faces (col. 3, lines 20-28). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to allow the first indicia to be from the 24 letter symbols of a standard telephone. One of ordinary skill in the art would have been motivated to perform such a modification to use the most commonly used letters on a standard telephone, as taught by Stein

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(col. 2, lines 59-65) and because a tetra-hexadron is composed of 24 equilateral faces, as taught by Ortiz Burgos (col. 3, lines 20-28).

Regarding claim 44, Kropinski discloses providing a first multi-faceted element/die (Fig. 3) carrying first indicia/letters and a second multi-faceted element/die (Fig. 5) carrying second indicia/numbers whereby an amount of points can be assigned by said indicia (col. 2, lines 57-63), manipulating/rolling said first element/die to select an indicia from said first indicia, manipulating/rolling said second element/die to select an indicia from said second indicia (col. 2, lines 57-63) and assigning points to said indicia of said first element based upon the indicia of the second element (col. 3, lines 57-63).

39. Claims 1 & 29 are rejected under 35 U.S.C. 102(a) as being anticipated by “BrickWars – Chapter Zero - Introduction” by BrikWars. BrikWars discloses a first multi-faceted element/d6 carrying first indicia (numbers 1-6) and a second multi-faceted element/d10 carrying second indicia (numbers 1-10) distinguishable from the first indicia.

### ***Claim Rejections - 35 USC § 103***

40. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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41. Claims 4, 6 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kropinski, as applied to claim 1 above, in view of U.S. Patent 3,618,038 to Stein and U.S. Patent 4,489,946 to Ortiz Burgos. Kropinski discloses a system, as described above, but lacks the 24 character symbols present on a standard telephone keypad. Kropinski discloses that a lesser number of faces (than the 26 disclosed) could be provided to the letters die by discarding more rarely used letters (col. 4, lines 54-56). However, Stein teaches that a standard telephone omits the letters Q and Z, leaving 24 letter symbols of the alphabet (col. 2, lines 59-65). Further, Ortiz Burgos teaches that a tetra-hexadron is composed of 24 equilateral faces (col. 3, lines 20-28). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to allow the first indicia to be from the 24 letter symbols of a standard telephone. One of ordinary skill in the art would have been motivated to perform such a modification to use the most commonly used letters on a standard telephone, as taught by Stein (col. 2, lines 59-65) and because a tetra-hexadron is composed of 24 equilateral faces, as taught by Ortiz Burgos (col. 3, lines 20-28).

42. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kropinski, Stein and Ortiz Burgos, as applied to claim 8 above, in further view of U.S. Patent 4,239,226 to Palmer. Kropinski, as modified above, lacks the total number of facets for all multi-faceted elements having second indicia thereon equal to 10, but discloses that the numbers 1 through 10 are used on the second die (numerals) (col. 1, lines 52-56). However, Palmer teaches that a decahedron is well known and teaches an improved random number generating, 10-facet die (col. 1, lines 5-35). Therefore, it would have been obvious to one having ordinary skill in the art

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at the time the invention was made for the number of facets for all multi-faceted elements having second indicia to equal 10. One of ordinary skill in the art would have been motivated to perform such a modification to hold the numbers 1-10 on an improved decahedron, as taught by Palmer (col. 1, lines 5-35).

43. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kropinski. Kropinski lacks at least some of first indicia being from the group of symbols consisting of the specialized letter symbols present in a second language and the letter symbols of a first language. However, the examiner takes Official Notice that including four more letters (CH, LL, n, rr) to the English language is old and well established in the art of languages as a method of allowing for a Spanish equivalent. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include 4 more letters from a second language. One of ordinary skill in the art would have been motivated to perform such a modification to create Spanish words. This advantage is well known to those skilled in the art.

44. Claims 12-14 & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kropinski, as applied to claim 11 above, in view of "Word Yahtzee" by GC. Kropinski lacks the first element having six facets and third, fourth and fifth six-faceted elements each carrying a portion of said set of first set of indicia. However, GC teaches that using 6-faceted dice to play word games is old and established in the arts (p. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use 5, 6-faceted dice instead of the single 26-sided die of Kropinski to create a Spanish equivalent of Word Yahtzee.



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One of ordinary skill in the art would have been motivated to perform such a modification to create a Spanish version of a popular word game, as taught by GC (p. 1).

45. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sieve, as applied to claim 1 above, in view of U.S. Patent 4,546,978 to David and Ortiz Burgos. Sieve discloses the invention as described above, where it is preferable to use solids of any shape and number not exceeding 4 and the tetrahedron (col. 1, lines 23-45), but lacks a number of facets being equal to 80. However, David teaches that a larger number of faces can prove more attractive as a chance generator (col. 1, lines 25-46). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use elements with increased number of faces. One of ordinary skill in the art would have been motivated to perform such a modification to increase the number of possible chances, as taught by David (col. 1, lines 25-46). Further, Ortiz Burgos teaches that using a 24-faceted die is known to result in a greater number of “spaces” (chances) (col. 3, lines 20-28 & Fig. 13). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the tetrahedron (4 facets), two icosahedrons (20 facets each), one dodecahedron (12 facets), as disclosed by Sieve, and to further use a 24-faceted die, as taught by Ortiz Burgos. One of ordinary skill in the art would have been motivated to perform such a modification to increase the number of possible values the combination of solids will produce, as taught by David (col. 1, lines 25-46) and Ortiz Burgos (col. 3, lines 20-28 & Fig. 13).

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46. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Milton Bradley. Milton Bradley's Yahtzee is repeated a plurality of times to provide a plurality of indicia for forming words, but lacks wherein assigned points are reduced each subsequent time the first element is manipulated. However, the examiner takes Official Notice that rewarding a player with more points for completing an objective with fewer turns is old and well established in the art of gaming as a method of increasing the factor that chance plays. For instance, in bowling, a strike on the first roll guarantees the possibility of 20 points, but a spare or gutter on a first roll reduces the total points possible to 10. Similarly, in Keno, the more balls randomly pulled before the user-selected sequence is found, the less the overall winnings can be. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to reduce the assigned points each subsequent time the first element is manipulated. One of ordinary skill in the art would have been motivated to perform such a modification to increase the factor that chance plays in a game and hence award more points if the goal is achieved after the first manipulation. This advantage is well known to those skilled in the art.

### ***Conclusion***

47. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Simitoski whose telephone number is (571) 272-3841. The examiner can normally be reached on Monday - Thursday, 6:45 a.m. - 4:15 p.m.. The examiner can also be reached on alternate Fridays from 6:45 a.m. - 3:15 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached at (571) 272-3838.

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**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, DC 20231

**Or faxed to:**

(703)746-7239 (for formal communications intended for entry)

**Or:**

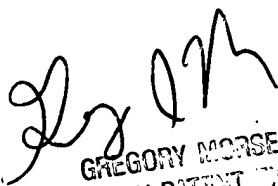
(571)273-3841 (Examiner's fax, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MJS  
January 19, 2005



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